

**UNITED STATES OF AMERICA**

**v.**

**Manning, Bradley E.  
PFC, U.S. Army,  
HHC, U.S. Army Garrison,  
Joint Base Myer-Henderson Hall  
Fort Myer, Virginia 22211**

**Prosecution Notification  
to the Court of  
Its Position on a Conditional Plea**

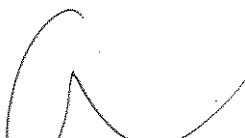
**16 November 2012**

1. On 23 October 2012, defense submitted its revised notice of pleas and forum. During an RCM 802 session defense requested the Court accept this plea yet still consider and rule on the litigated speedy trial issues.
2. The Court has asked the United States to reply to this proposal. It has also requested the Prosecution notify the Court of its position on a conditional plea.
3. The United States does not support a conditional plea. Further, it is the government's position that while the RCM does not provide for the preservation of speedy trial issues for appellate review through any mechanism outside of the conditional plea, the rules are silent on the Court's ability to preserve these issues for its own consideration after accepting a guilty plea. RCM 707(e) provides "except as provided in R.C.M. 910(a)(2), a plea of guilty which results in a finding of guilty waives any speedy trial issue as to that offense." RCM 910(a)(2) states that "an accused may enter a conditional plea of guilty, reserving the right, on further review or appeal, to review of the adverse determination of any specified pretrial motion." This is the only mechanism the Rules provide to accompany a guilty plea yet preserve issues for appeal. The United States could find no mechanism either affirmatively permitting or explicitly prohibiting the Court from preserving issues for its own consideration.
4. The United States recommends that a plea not be considered during the session scheduled for speedy trial litigation from 10-14 December 2012. Rather, the United States recommends the plea be considered during the session scheduled for 14-18 January 2010.



ASHDEN FEIN  
MAJ, JA  
Trial Counsel

I certify that I served or caused to be served a true copy of the above on Defense Counsel via electronic mail, on 16 November 2012.



ASHDEN FEIN  
MAJ, JA  
Trial Counsel